

# **Weird Science**

## **The Interior Department's Manipulation of Science for Political Purposes**



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Committee on Resources

U.S. House of Representatives

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December 17, 2002

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## **Background and Summary**

Within hours of moving into the White House, the Bush Administration put a hold on numerous regulations that had been in the making for years. At least half a dozen environmental regulations were suspended on Inauguration Day including reducing allowable arsenic levels in drinking water, implementing hardrock mining environmental and economic standards, phasing out snowmobiles in Yellowstone National Park, conserving roadless areas in National Forests, and closing the loophole to protect wetlands from commercial development.

These actions were warranted according to Administration officials because they wanted to ensure that the best possible science was used to support new regulations. Yet time and time again the Administration has put politics and corporate interests above the “best science.” Over the past two years, the Administration has ignored, manipulated, challenged, suppressed and dictated scientific analysis in order to implement an agenda harmful to the environment and to roll back Clinton-era protections.

Since the Interior Department’s inception more than 150 years ago, it has come to manage more than 500 million acres of public land including our national parks, wildlife refuges and lands held in trust for Native Americans. As stewards of the natural resources owned by the American taxpayers, Interior Department officials must be held accountable for promises and policy decisions.

**At her Senate confirmation hearings in January 2001, Gale Norton said: “I am absolutely committed to the idea that the decisionmaking should be based on the best science, on the best analysis of environmental issues that we can find and, as Secretary of the Interior, would anticipate, if I am confirmed, trying to be sure that our decisions are really made in a fully informed way with full public participation.”**

The House Committee on Resources Democratic Staff examined the record of Interior Department Secretary Gale Norton and administrative actions to selectively choose, manipulate and politicize science. This report details 10 examples across the country documenting the Department’s *Weird Science* approach to managing America’s lands, through its application of science for political and industry gains.

## **Politics Over Science**

### **I. Arctic National Wildlife Refuge**

#### **Caribou**

After twelve years of research, Interior Department scientists determined drilling in the Arctic National Wildlife Refuge (ANWR) would adversely affect the Porcupine caribou, particularly their ability to roam the coastal plain for food, thus hampering their sustainability. In response to these findings, Interior Secretary Gale Norton called the study “science fiction” and demanded the scientists produce another study.

One week later, U.S. Geological Survey biologists released a two-page report which supported the Administration’s claims that wildlife would not be harmed by energy production in ANWR. Compiled in a small fraction of the time it took to produce the first science-based, thorough report, Secretary Norton adopted this second report.

Yet, when Norton was asked at her confirmation hearing if she would commit to using the “very best science available from the Department of the Interior” in ANWR drilling debates she replied, “Absolutely.” Instead, Norton manipulated and dictated what constituted the best science in order to implement the Bush agenda.

#### **Polar Bears**

While the effects of drilling on the caribou have received the most public attention, ANWR also provides important denning land for polar bears. Biologists for the U.S. Fish and Wildlife Service (USFWS) issued two reports in 1995 and 1997 warning that energy exploration and development in ANWR could place the U.S. in violation of an international polar bear treaty. However, Interior Department officials formally rejected the reports noting they do not “reflect the Interior Department’s position” and requested the USFWS rewrite the scientific report to provide support for the Administration’s goal of opening the refuge to drilling.

### **II. Powder River Basin**

In the quest to find energy sources to feed our country’s demand, a Bush Administration priority is drilling for oil and gas in the Powder River Basin in Wyoming. The Bureau of Land Management (BLM), which owns the mineral rights on private property in the area, has already leased 99% of the basin for oil and gas development. When the Bush Administration came into power, the BLM proposed creating 51,000 coalbed methane wells using an outdated land-use plan from 1985. The BLM admits it did not consider a full range of alternatives including new technologies to mitigate impacts.

Federal agencies even disagree on the environmental impact of drilling in the basin. While the BLM has approved this project, the Environmental Protection Agency (EPA) administrator for the region blasted the BLM's environmental impact statement for ignoring water and air quality problems.

Yet in Washington in August 2002, the EPA released a draft report on the effects of hydraulic fracturing on drinking water supplies. This well-development method has not received sufficient scientific study, however, the report concluded the procedure would have a low risk of contaminating drinking water with toxic chemicals, dismissing concerns and contradictory data presented in the report. When Congressional staff expressed concern about estimated chemical concentrations that exceeded drinking water standards, EPA re-worked the numbers with assistance from the oil and gas industry, so the chemical concentration estimates no longer exceeded safe drinking water standards in ground water. Had EPA used data consistent with their report, the estimated chemical concentrations in ground water would have been dramatically higher.

The Interior Department's Board of Land Appeals raised concerns when it rejected three previously granted leases in the basin. In fact, the Board ruled in October 2002 that the BLM erred when it issued the three leases without considering the environmental impacts. Once ground water becomes contaminated, a remedy would be difficult and expensive, if not impossible. Before jumping ahead to fulfill oil and gas industry wish lists, the Interior Department should be promoting a thorough study and analysis of the procedure to fully understand and mitigate impacts to both surface and ground water supplies.

Ironically, the Administration, which prides itself on protecting the rights of private property owners, is willing to compromise the rights and concerns of landowners whose property lies above and near the coalbeds to pave the way for oil and gas industry profits. In addition, by issuing binding leases based on old information and ignoring new technologies in the Powder River Basin, the Administration promotes the use of bad science for political gain.

### **III. Klamath River Basin**

#### **The Water Debate**

"The hazard of picking and choosing science that supports a political position and not the biological facts has become evident in Oregon's Klamath Basin," wrote *The Seattle Times* in an editorial on October 3, 2002.

When U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) biologists determined the threatened salmon and endangered lakefish should receive more water in the Klamath River Basin in April 2001, instead of irrigators, farmers became outraged. At one point the farmers protested this decision by illegally opening the head gates to obtain additional water for their farms.

The Interior Department used the dispute between the farmers and the fish to create further conflict by requesting a National Research Council (NRC) review. The panel used different criteria than that used by USFWS and NMFS scientists, whose standards are set forth in the Endangered Species Act (ESA). The panel issued a hasty interim report to evaluate the

Klamath River Basin crisis, creating the impression the fish did not need water.

The law requires the agencies to make decisions based on the best information they have available, not to wait until such time that all possible information is available. Even a USFWS biologist, quoted in *The New York Times* in February 2002, said: “Under the Endangered Species Act, we have to make a decision based on the best available science. That’s a different standard than saying we have to prove something is absolutely right or wrong.” Similarly, in response to the NRC interim report, a USFWS official told *The Washington Post* in February 2002: “They didn’t say the science proves we were wrong; they just said there wasn’t enough science to prove us right.”

A more extensive federal study is expected to be completed in August 2003. Still, Norton used the NRC interim report to overturn the prior decision by her own scientists. Soon after, in September 2002, more than 33,000 salmon perished in the lower Klamath River. Investigations into the cause of the massive fish kill remain ongoing, but the evidence points to a lack of water as the prime culprit.

Further undermining the Secretary’s decision, a paper to be published in March 2003 in the scientific journal *Fisheries* points out multiple errors in the NRC report. The authors question the scientific usefulness of the panel’s review and find that the report served to deflect debate away from the needs of listed fishes to one about perceived shortcomings in the ESA.

### **Suppressed Scientific Information**

Less than a month after the fish kill, in October 2002, Michael Kelly, a federal biologist with NMFS, came forward stating the Bush Administration, through the Bureau of Reclamation, pressured NMFS to recommend insufficient measures to protect the threatened salmon and to maintain flow levels favoring farmers. Kelly helped draft the biological opinions which were twice dismissed by the Bureau of Reclamation. Not only has the Administration ignored the best available science and its own biologists, but also NMFS may have violated the ESA by approving the lower river flows favored by the political appointees, Bureau of Reclamation and farmers.

In addition, the Administration refuses to release to the public two other reports which do not support its position or actions in the Klamath River Basin. First, a U.S. Geological Survey report concluded that by returning water to the river the area would receive 30 times more economic benefit through sport and commercial fishing and recreation compared to diverting it to the farmers. The author of the report claims it is being held up for “internal political reasons” by the Administration despite the fact that it has been scientifically peer-reviewed. Second, a report outlining the scientific need for higher flow levels for salmon and other fish in the lower Klamath River, known as the Hardy Phase Two Report, has been in final draft form since November 2001. This report was commissioned by the Interior Department, but it has remained in draft form because the Administration does not like its conclusions.

#### **IV. Snowmobiles in Yellowstone**

In an attempt to appease the snowmobile lobby and settle a lawsuit, the Bush Administration halted a plan to ban snowmobiles in Yellowstone National Park, which emerged following 10 years of study. This action reopened the debate on phasing out snowmobiles in Yellowstone.

Then when the EPA was developing new pollution standards for snowmobiles the Bush Administration disavowed, and even censored, the advice of its own scientists. A government whistleblower provided the Congress with documents showing that in a draft letter to the EPA, the Interior Department removed its own scientists' comments recommending snowmobile emissions be curbed to reduce haze and smog. In the Interior Department's February 2002 letter to EPA, there is no mention of standards for particulate matter or nitrogen oxide emissions, or the expression of concern about EPA's proposal to average emission controls over all types of snowmobiles, as was in the draft letter.

The Bush Administration officially reversed the proposed ban in November 2002 and released a plan that actually allows 35% more machines in the park than the current daily average. Over the last decade approximately 800 snowmobiles have been allowed in the park daily compared to the Administration's proposal allowing 1,100 snowmobiles. This proposal runs contrary to science cited by EPA stating the health of park rangers could suffer from the continued exposure to snowmobile emissions. The Interior Department cited local community concerns as well as industry promises to improve engines for noise and exhaust emissions as reasons its decision. At the same time, the Bush Administration ignored the deafening sentiment from the public comment period where 80% of respondents supported the ban.

#### **V. Endangered Species Act**

One of the most obvious examples of the Administration purporting to seek "sound science" is its support of H.R. 4840, a bill to amend the ESA. This attempt to legislate what constitutes "sound science" would only serve to politicize the important science debate. The ESA already requires the Secretaries of Interior and Commerce to base their decisions under the statute on the "best scientific and commercial data available." In this regard the respective departments have had policies and procedures in place since 1994 to ensure compliance with this requirement.

H.R. 4840 effectively replaces the standard of "best scientific information available" with a virtually unattainable standard of "clear and convincing evidence" when considering listing petitions. Further, this legislation would selectively give priority to specific kinds of data. Not only does this create more ambiguity, potential for litigation and delay, and ultimately limit the application of the best available science, but it is also contrary to the stated purpose of the legislation that the best science be used in decision-making.

Yet, perhaps one of the most outrageous requirements in this legislation requires the Secretary, not scientists, to define the best available science to be used in determinations. Secretary Norton, a professional lawyer and political appointee, endorsed this legislation which would give her the power to manipulate and dictate "best science."

The Bush Administration has also taken actions against protecting individual endangered species. When Secretary Norton cancelled the Bitterroot grizzly bear restoration plan in June 2001, the Administration contradicted the best available scientific information on recovering this endangered species. In rejecting the plan, which reflected years of consultation with conservationists, timber industry representatives and local interests, the Administration also abandoned its supposed commitment to collaborative conservation.

## **VI. Everglades Restoration**

When it comes to restoring one of our Nation's most precious natural wonders, the Bush Administration is not listening to what the scientists have to say. Though the Bush Administration has committed itself to seeking "sound science," many scientists, including those within the federal government, are concerned with the implications of the engineering blueprint drawn up by the Corps of Engineers for restoring the Everglades ecosystem, an area listed as a World Heritage Site in part due to its amazing biodiversity. In 1999, prominent scientists wrote the Interior Department that there were "deep systemic" problems with the plan. Internal communications reveal the environmental merits to the restoration plan are in doubt, and the government's own scientists say the plan will not help the park until at least 2020, if at all.

In part because of such registered concerns, the restoration plan is supposed to be overseen by an independent scientific panel, to be established by the Governor of Florida and the Secretaries of the Army and Interior, according to the Water Resources Development Act of 2000. Unfortunately, this panel has yet to be instituted, despite the fact that the panel's first report is due this month (December 2002).

Additionally, the Interior Department, which has jurisdiction over the Everglades National Park and fish and wildlife issues, is shying away from its role in the process. Draft regulations to guide implementation of the Everglades plan issued this summer by the Corps stripped Interior of its legally-required concurrence role, with the actual support of the Department. Moreover, also without resistance from Interior, the Corps left out protections required by Congress to guard against the very distinct possibility of the plan being converted into a huge urban water supply project. Charles Groat, director of the U.S. Geological Survey, told *The Washington Post* in June 2002: "There's a lot of talk about sound science, but it doesn't seem to affect the high-level decision-making."

The Interior Department further continued its abandonment of science when, in March 2002, the USFWS released an amended biological opinion concerning the endangered Cape Sable seaside sparrow, found only in the Everglades. The sparrow's populations remain at dangerously low levels and its survival depends on a key Everglades restoration project. Despite the fact that there has been no significant change in the bird's ecological status, the USFWS abandoned the 2003 deadline for the project that it had set in 1999.



## **VII. Marine Mammal and Environment Protections**

### **Manatee Protection**

Secretary Norton faces possible contempt of court charges because she has failed to establish refuges and sanctuaries for the endangered manatee, mandated by a January 2001 lawsuit settlement. Manatees are one of the most critically endangered, yet passive marine mammals in our ecosystem. In Florida, the population boom, increase in coastal development and rise in powerboat traffic in particular, have led to a disruption of manatee habitat. Last year, 325 died off the coast, 81 of those deaths are attributed to boats, which tear through habitat areas, without regard to the endangered mammals' health and safety. As of December 6, 2002, a record-breaking 93 manatees have been casualties of boating accidents.

Yet a 2001 USFWS plan to add more manatee speed patrols in Florida was derailed by Governor Jeb Bush, the President's brother. Governor Bush said the state was already adding new patrols, yet in most counties state patrols have declined. In addition, a President Bush supporter and one of the largest developers on Florida's western coast, was granted an environmental permit change to allow an increased number of powerboats to dock at a marina in Fort Myers, Florida. Al Hoffman Jr., who was named finance chairman of the Republican National Committee after President Bush's election, owns the development company.

### **Marine Protected Areas**

At the end of his Administration, President Clinton issued an executive order to the National Oceanic and Atmospheric Administration (NOAA) to establish a Marine Protected Area (MPA) Advisory Committee. The committee was to consist of independent scientists, and its mission was to inventory existing MPAs, recommend new areas and establish an integrated network to focus on marine mammal protection.

When President Bush took office, a panel of qualified scientists was in place to begin its task. However, in June 2001 the new Administration announced it wanted to appoint its own scientists to the panel. Since then, the Departments of Interior and Commerce have not made any progress in mobilizing this committee.

## **VIII. National Forests Policy**

### **Healthy Forests Initiative**

The Bush Administration is exploiting the western catastrophic wildfires of the summer of 2002 in order to open the door to unfettered commercial logging in our National Forests. The President's "Healthy Forests Initiative," endorsed and promoted by Interior Secretary Norton, attempts to roll back decades of environmental protection laws in the name of forest health. The President's plan is premised on the questionable assumption that thinning forests on U.S. Forest Service and BLM lands is necessary to reduce the risk of catastrophic wildfires, "restore" forest health and protect communities. With no geographic limitations or tree diameter limits and expedited processes that curtail environmental and scientific review, "thinning" translates into logging. The "Healthy Forests Initiative" even provides for logging of large trees to pay for removal of the underbrush.

Despite the Administration's insistence on the need to "thin" the forest to save it, science

demonstrates that logging actually undercuts forest health and contributes to the severity of wildfires. An emeritus research forester with the Forest Service, C. Phillip Weatherspoon, who has written extensively on fire, in a September 2002 article in *The New York Times* said: “Partial cutting done historically typically aggravated the fire hazard and made things worse when fire came along.” A research arm of the Forest Service has also said that land-use and land-management practices of the past century, including logging and fire suppression, have changed fire patterns.

If the Administration truly wanted to protect homes and communities from wildfire damage, it would embrace the advice of a Forest Service researcher, who, in 1999, concluded that reducing home losses through wildland fuel reduction may be inefficient and ineffective. The study stated, “effective fuel modification for reducing potential wildland urban interface fire losses need only occur within a few tens of meters from a home, not hundreds of meters or more from a home. This research indicates that home losses can be effectively reduced by focusing mitigation efforts on the structure and its immediate surroundings.” Thus, the study concluded, wildland fuel reduction hundreds of meters or more around homes is unnecessary as it does not sufficiently reduce fire ignitions of structures.

The growing wildland urban interface increases the threat of wildfires to communities. Yet the Bush plan does not address the need to protect communities and instead seeks to log the back country, which will in turn only exacerbate fire risk. Preserving old-growth trees and large fire-resistant trees is necessary to truly maintain healthy forests and to protect habitat for our fish and wildlife.

While Secretary Norton does not oversee National Forests, she does oversee forested BLM lands, which like National Forests, provide some of the most important habitat for fish and wildlife. In this capacity, she has been a vocal spokesperson for the “Healthy Forests Initiative,” an initiative that aims to reduce scientific analysis and public input in land-management decisions with tremendous implications for habitat.

Similarly, just before Thanksgiving, the Bush Administration announced revised National Forest Management Act (NFMA) regulations providing more timber industry access to the forests without public input or scientific analysis of the ecological impact. The draft rules place science on the sidelines, contradicting the recommendation of the Forest Service’s advisory committee of scientists, which advised that protecting the ecosystem should receive the highest priority.

### **Sierra Nevada Framework**

Last December the Bush Administration ostensibly approved the Sierra Nevada Framework, originally adopted under President Clinton to protect old-growth forests and wildlife habitat, but said it planned to review the guidelines for managing forests throughout the Sierra Nevada. In the beginning of December 2002, the Administration announced it would allow extensive logging on two National Forests and the Giant Sequoia National Monument, all in the name of science.

The Administration says it plans to scientifically test the effects of logging on California spotted owls and other “old forest species” in a 20-year study. But this supposed scientific study sharply contrasts with the original intent of Sierra Nevada Framework, which included a pilot program to protect forests and wildlife habitat from wildfires and destructive logging while also sustaining the timber industry.

To reach a scientifically sound management policy, the Sierra Nevada management plan involved 11 years of scientific analysis and public participation. Whereas the entire plan called for building only 24 miles of potentially ecologically damaging roads on 11 National Forests, the current proposal includes 160 miles of roads concentrated in half a million acres on two National Forests. The new proposal also allows logging of trees 34 inches in diameter as opposed to the current plan’s cap of 20 inches.

## **IX. Department of Defense Authorization Environmental Exemptions**

In the Fiscal Year 2003 Department of Defense (DOD) authorization bill the Administration sought several environmental law exemptions for the military, including the Migratory Bird Treaty Act (MBTA) and ESA. The USFWS strongly opposed these exemptions. Though these views were never made public, and the agency had little influence with the high-level political negotiations, Secretary Norton endorsed the environmental exemptions ignoring her Department’s own scientists and her responsibility to protect fish and wildlife. Ultimately only the proposed MBTA exemption was included in the final DOD authorization bill which President Bush signed this month.

## **X. Native American Sacred Sites**

The Interior Department has signed off on numerous permits for development on lands considered sacred by Native Americans. In September 2002, the Secretary Norton gave life to a proposed gold mine on a site sacred to the Quechan Indian tribe in California, despite a previous ruling by former Interior Secretary Bruce Babbitt denying a permit based on the cultural and historical significance. The Administration will review the same environmental impact statement (EIS) Babbitt used to make his decision, hoping to skew the interpretation in favor of the mining industry.

Additionally, in western New Mexico the Interior Department used an outdated EIS in May 2002 to justify issuing a permit for a coal strip mine within miles of an area sacred to the Zuni Pueblo. Since the EIS was completed, the federal government has discovered that the area around Zuni Salt Lake is eligible for the National Register of Historic Places and hydrologists for the Bureau of Indian Affairs concluded mine operations could harm the lake.

## Conclusion

These examples illustrate the Interior Department's manipulation of science for political purposes. As the Administration and many lawmakers are currently demanding "sound science" it is ironic that time and time again the Administration ignores the expert advice of its own scientists. This is not merely a case of the Administration ignoring sound science, but one where the science is being manipulated, distorted and purposely kept from the public for political and industry gains.

The Administration's eagerness to roll out the red carpet for corporate interests, with the help of Secretary Norton, outrageously abandons the Interior Department's mission to "protect and provide access to our Nation's natural and cultural heritage." When hearings were held on the nomination of Norton to head the Interior Department she vowed to implement the use of sound science and to be "fully committed to ensuring that our Nation's environmental laws and laws for the protection of natural resources will be fully enforced." Yet Secretary Norton has failed to do what she promised: to protect America's mountains and rivers, fish and wildlife, in the face of increased pressures to drill, mine, log and recreate on our public lands.

Secretary Norton's actions placing our precious natural resources in jeopardy falls into the Bush Administration's pattern of secrecy and excluding the public from decision-making. First the Administration determines its preferred policy, then it concocts the facts to fit. This Administration has demonstrated a reverence for keeping a tight lid on information and a preference for silencing those who attempt to speak out against damaging policies.

Unfortunately, the use of sound science in land-management decisions is not the only thing at risk under the Bush Administration. The National Park Service issued a memo in September 2002 stating that employees were not allowed to make speeches on any topic related to their work, restricting the employees' First Amendment rights. In another example, a National Park superintendent resigned in October 2002 rather than accept a new position because the Bush Administration intends to reverse Park Service policy and push through two controversial projects in Great Smoky Mountains National Park.

The bottom line is forced science and forced silence should not be used as political tools. The Bush Administration should truly seek sound science in every instance, not just when it fulfills short-term political gain. It is time to terminate this *Weird Science* policy.